

COUNCIL PROCEEDINGS

JOURNAL 167

JANUARY 12, 1999

MINUTES OF THE MEETING OF THE CITY COUNCIL

Wichita, Kansas, January 12, 1999
Tuesday, 9:05 A.M.

The City Council met in regular session with Mayor Knight in the Chair. Council Members Cole, Ferris, Gale, Lambke, Rogers; present. *Council Member Kamen absent.

Chris Cherches, City Manager; Gary Rebenstorf, Director of Law; Pat Burnett, City Clerk; present.

Methodist Church.
The invocation was given by Rev. Elsie Crickard, Pleasant Valley United

The pledge of allegiance to the flag was participated in by the Council Members, staff, and guests.

Minutes -- approved
The minutes of the regular meeting of January 5, 1999, were approved 6 to 0. (Kamen absent)

WARDS AND PRESENTATIONS

Service Citations
Distinguished Service Citations were presented to those present.

PUBLIC AGENDA

Comments by Greg Brumley.

This Item has been rescheduled for January 26, 1999.

UNFINISHED BUSINESS

CPO ELECTIONS ORDINANCE ON CPO ELECTIONS UPON REDISTRICTING.

Continued from December 22, 1998.

Gary Rebenstorf
Director of Law reviewed the Item.

Agenda Report No. 99-020.

On December 22, 1998, the City Council approved a resolution establishing district and subdistrict boundaries for CPO members effective with the April 6, 1999, election. Under current CPO ordinances, vacancies would be declared in the positions of those incumbent CPO members who are relocated to new Council districts as a result of redistricting. As part of its action, Council directed that an ordinance be prepared to allow such incumbents to serve out the terms for which elected. Based upon Council directive, the City Clerk has not included these incumbent positions in her certification of vacancies to the Sedgwick County Election Commissioner.

The proposed ordinance amends the Neighborhood Council (CPO) membership and election procedures. In the event that redistricting results in an incumbent member residing outside of the member's district or subdistrict, the member continues to be qualified to serve as the representative of that district and subdistrict for the remainder of the member's term. This provision parallels the existing language of Charter Ordinance no. 126 for City Council members.

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The ordinance is also amended to remove provisions which are no longer needed pertaining to the 1991 and 1993 elections on the establishment of districts and terms of CPO members. The ordinance restates the four year term for elected members.

Questions have arisen as to which CPO (old or new boundaries) should now hold hearings on zoning items. It is recommended that it is appropriate for the CPOs to hear matters consistent with Council districts. (Note, new City Council districts were effective December 28, 1998.) With this ordinance, it is no longer necessary to delay the effective date of the new CPO districts in order to protect incumbents who are finishing their terms. Council can direct Staff to forward items to CPOs based upon the newly approved districts.

Council Member Ferris Council Member Ferris clarified that his intent was that Section One (1) should only include sub-districts. In the event that a revision of a subdistrict boundary shall result in an incumbent member residing outside that member's subdistrict, such member shall continue to be qualified to serve as the representative of that subdistrict until the completion of the term for which elected or appointed.

Mayor Knight Mayor Knight inquired whether anyone wished to be heard and no one appeared.

Motion -- Ferris moved that Items for CPO consideration should now be noticed and referred to the appropriate CPO districts consistent with the new boundaries established by the Resolution of December 22, 1998; and the Ordinance, as amended, be placed on first reading. Motion carried 7 to 0.

-- carried

ORDINANCE

An Ordinance amending Section 2.60.030 of the code of the City of Wichita pertaining to neighborhood council elections; and repealing the original of said section, introduced and under the rules laid over.

SOLID WASTE CODE **AMENDMENT TO CHAPTER 7.08 OF THE SOLID WASTE CODE - RADIOACTIVE WASTE LEVELS.**
Continued from December 15, 1998.

Jack Brown Environmental Health Director reviewed the Item.

Agenda Report No. 98-1196 A.

Radioactive materials and waste are common in municipal waste. This material is used in medical treatment, aircraft manufacturing and various industrial processes. Certain levels of radioactive waste are suitable for land filling due to their low toxicity and rapid degradation. There is no radioactive waste contamination at the landfill. In 1991, the City Council adopted Section 7.08.135 of the City Code which prohibits disposal of radioactive waste at any landfill owned by the City of Wichita. In late 1997, two sets of radiation detectors were installed at the scales of the Brooks Landfill. The City sought guidance from the Kansas Department of Health and Environment (KDHE) on how this type of waste should be managed. Based on this KDHE guidance, the City established a temporary policy on loads containing radioactive waste and referred KDHE's recommendations to the Board of Health for its recommendation.

"Radioactivity" means the spontaneous emission of radiation, generally alpha or beta particles, often accompanied by gamma rays, from the nucleus of an unstable isotope. In Kansas, radioactive waste is regulated by the KDHE through licensing of users of radioactive isotopes. Through this system, radioactive waste must not be placed into the municipal waste stream (and patients who receive radioisotope treatments must not be discharged) until the material has decayed to a point where the level of activity does not present a threat to public health or the environment.

Because radioactivity is a natural process, there is always a certain detectable level of radioactivity present anywhere on earth at any time. This "level of background" radioactivity varies from place to place and over time for any given location. Measurements of radioactivity must, therefore, take this background level into account.

Currently, detectors are set to notify the landfill operator if any load above the background level comes onto the scales at the landfill. Under the City's temporary policy, if the load is below two times background, it is landfilled without any special handling. If it is above two times background, it is rejected from the landfill, unless it is a load that has been previously rejected and is expected to decay below two times background in less than 24 hours.

The City Council has received a recommendation from the Board of Health on this issue which was reviewed by the

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Council on December 15, 1998. At that meeting, the City Council requested staff to look at other options that are available to address this issue.

Staff has developed four options to address this issue:

Option #1. Discontinue the current detection program. The City is not under any state or federal mandate to screen for radioactive waste at the Brooks Landfill. The first option is to end the program. This option has no financial cost to the City. It would result in the City not knowing if radioactive waste was received at the landfill.

Option #2. Follow KDHE's Recommended Program. The Kansas Department of Health and Environment (KDHE) has provided guidance to the City relative to this matter. Under this option, the City would construct a shell structure over a paved slab where radioactive loads would be dumped and inspected to determine what radioactive material had been received if it exceeded the standard now established in the temporary policy of two times background. Staff and Herzog Environmental's employees would be trained in this procedure and appropriate instrumentation and safety equipment would be purchased. A consulting health physicist would be retained to set up the program, train personnel, and make a determination as to how to handle and process the radioactive material.

Option #3. Adopt the Present Temporary Policy. Under this option, any load under two times background level is landfilled as usual. Any load over two times background is rejected from the site. If a load is over 50,000 counts per second (cps), the driver is asked to leave the vehicle on site and KDHE is notified so that they can respond and investigate the load. The financial cost to the City of this option is minimal. The City does not maintain control over the radioactive material under this option.

Option #4. Adopt the Board of Health's Recommendation. The Board of Health has recommended that the City accept any load that is less than 50,000 cps and landfill it as normal. Haulers would be advised anytime a load they presented was above two times background. If a load was above 50,000 cps, the vehicle would be impounded at the landfill and KDHE would be called to investigate the load and make a determination of how it should be disposed. The financial cost of this option to the City is minimal.

The landfill has received between 9,737 and 14,765 loads per month to in 1998. During this time there have been as few as 10 and as many as 22 loads that were above background level in any given month. About 70% of these loads were below two times background and landfilled. The balance were rejected because they were above two times background. One load was detained and KDHE was called to respond to the landfill. An investigation revealed that a radioisotope source from a local medical supply company had been illegally disposed of in the municipal waste stream. The source was returned to the company for proper handling.

There is no financial cost of Option #1 (Disconnect the Detectors).

The financial cost of Option #2 (Follow KDHE's Recommended Program) is significant. To comply with the program KDHE would like the City to consider, the City believes it would be necessary to construct a building shell to provide an all weather location with an impervious floor where loads could be inspected and radioactive waste could be held pending proper disposal or return to responsible party. Based on this assumption, the cost of this program was estimated at between \$175,000 and \$860,000 over the remaining life of the landfill. The reason for the large range in the cost estimate is that it is unknown at this point how long it will take to process each load and how many loads there will be, especially if the cost of the program is charged back to the offending haulers.

If a tipping fee increase were used to pay for the KDHE desired program, that increase (from the current \$26/ton cost) would be between \$0.12 and \$0.57/ton. Alternatively, if all of the costs of this program were charged on a per-occurrence basis to the offending haulers, the per incident charge might be as low as \$1,200 or as high as \$4,800 per occurrence. Obviously how the cost of the program is recovered will greatly impact the number of loads we will actually have to process and thereby impacts how the fixed costs are spread. Once the County assumes control over Solid Waste, this investments would be lost.

The financial cost of Option #3 (Adopt the Present Temporary Policy) is minimal and can be paid with funds from the existing budget.

The financial cost of Option # 4 (Adopt the Board of Health's Recommendation) is minimal and can be paid with funds from the existing budget.

Ordinance changes may be necessary for future Council consideration if option 2, 3 or 4 are selected.

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- Council Member Kamen Council Member Kamen, regarding KDHE inspection of impounded vehicles, said KDHE can only act within its budget capabilities.
- Council Member Kamen said it is easy to find radioactive material with a Geiger counter. Loads should be unloaded and the radioactive source found so there would be no impounded vehicles.
- Council Member Rogers Council Member Rogers said the City should begin to make a concerted effort to coordinate these matters with the County.
- Council Member Cole Council Member Cole spoke in favor of Option 4, the Board of Health recommendation. A slab would not be sufficient and the City should not spend a lot of money to get to the year 2001.
- Mayor Knight Mayor Knight stated that there is a strong environmental ethic in the community. The KDHE recommended program should be followed.
- Joe Pajor Natural Resources Director said KDHE is, in part, curious and will watch the City of Wichita's program to see what is sent to the landfill that is radioactive.
- Mayor Knight Mayor Knight spoke in support of Option 2, if it is without anything more than a slab.
- Council Member Ferris Council Member Ferris also spoke in support of Option 2 and said Staff should be allowed the flexibility to see whether it can be done without increasing the budget.
- The Law department might want to look into whether or not the City should also have a fine when radioactive material is found, especially if it appears it is not by accident.
- The City does not want this to be overburdening to landfill users. The City has a zero tolerance for radioactive waste going into the landfill.
- Mayor Knight Mayor Knight inquired whether anyone wished to be heard and no one appeared.
- Motion -- Ferris moved that Option Two (2) be selected, using a paved slab, not a structure; Staff be allowed the flexibility to determine the funding and return to the City Council if there needs to be modification of fees or charges to accommodate the activity that is taking place under Option Two (2); Staff be allowed the flexibility to evaluate whether or not there should be penalties assessed with the intentional dumping of radioactive waste into the waste stream. Motion carried
- carried 7 to 0.

MENNONITE HOUSING MENNONITE HOUSING SERVICES, INC. - LOCAL INVESTMENT AREA PROJECTS.

Continued from September 22, 1998.

- Tom Smith Grants In Aid Coordinator reviewed the Item.
- Agenda Report No. 99-021.
- In December, 1997, the City issued a funding application for 1998/99 HOME and Emergency Shelter Grant funds. Applications were accepted for City-wide projects. In January, 1998, Mennonite Housing Services (MHS) submitted a request for \$250,000 in 1998/99 HOME funds for a proposed Home Ownership project. On March 17, 1998 based upon the recommendation of the Grants Review Committee, the City Council approved the Consolidated Plan funding, including a HOME grant in the amount of \$117,200 for the MHS Home Ownership project.
- In taking action on funding under the HUD consolidated funding allocations, the City Council also targeted 1998/99 CDBG and HOME funds to Local Investment Areas as a part of the adopted Neighborhood Revitalization Plan.
- This subject was discussed by the City Council on June 30, 1998 and again on July 21, 1998 and August 4, 1998. The action by the City Council was: " ...the \$117,200 grant for new construction or rehabilitation to Mennonite Housing Inc. be approved; that, as soon as possible, Staff work with Mennonite Housing Services to assemble a site

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within the revitalization area; and that this item be returned to the City Council within two weeks.”

On June 15, 1998, MHS requested a waiver of the targeting of 1998/99 HOME funds for its proposed Home Ownership project. The proposed 13-lot site located near Maybelle and University is not located in the Revitalization Plan's Local

Investment Area. Mennonite Housing requested a waiver of this policy because it submitted its project application prior to Council action on the Consolidated Plan allocations.

On July 21, 1998, the City Council considered the waiver request from MHS but deferred action on the waiver, and requested staff to work with Mennonite Housing to assemble a site within the Local Investment Areas. Staff assembled a list of twenty four (24) possible sites within the Local Investment Areas. On July 29, 1998, Mennonite Housing was requested to select a site from the list or identify any other suitable site in the Local Investment areas. None of the possible sites provided by the City were satisfactory to MHS. The City Council granted additional time to allow this agency to continue to search for an appropriate development site within the Local Investment Areas.

Because of a change in management, the City Council deferred consideration of this item. On September 11, 1998, MHS requested withdrawal of its earlier request for a waiver and authorization for the agency to use these HOME funds for another project.

Mennonite Housing has re-submitted its proposal which targets the Orchard Breeze and Midtown North Local Investment Areas; it includes acquisition and rehabilitation of homes/sites, as well as new construction, when applicable. Grant funding would be provided on a revolving basis. City HOME funds would be matched against approved grant funding from the Federal Home Loan Bank (AHP funds). MHS proposes to provide construction services, project management, homeownership training and credit counseling. MHS will also draw on its volunteer base and local lenders to complete the implementation team.

MHS has also created a new position for a Community Block Revitalization Coordinator, which will be partially funded with HOME operating assistance approved by the City Council November 17, 1998. The Coordinator will have the responsibility of canvassing individual blocks, determining ownership and level of need and ability to rehabilitate a grouping of homes or a neighborhood, and will ultimately guide the use of the allocated funding in these Local Investment Areas.

Funding required for this project in the amount of \$117,200 was allocated from the 1998-99 HOME grant.

The City Council has the authority to expend HOME funds for any eligible project subject to review and approval by HUD. The project is compliant with HOME regulations, and grant funding agreements will be approved as to form by the City Law Department.

Council Member Ferris left the Bench.

Mayor Knight Mayor Knight inquired whether anyone wished to be heard and no one appeared.

Motion --Cole moved that the MHS Local Investment Area project be approved as proposed and that Staff be authorized to negotiate and prepare contracts for the Mayor's signature. Motion carried 6 to 0. (Ferris absent)

-- carried

NEW BUSINESS

WATER PETITIONPETITION FOR A WATER DISTRIBUTION SYSTEM TO SERVE PART OF SPRINGDALE EAST SECOND ADDITION - SOUTH OF KELLOGG, EAST OF 143RD STREET EAST. (District II)

Steve Lackey

Director of Public Works reviewed the Item.

Council Member Ferris present.

Agenda Report No. 99-022.

The signatures on the Petition represent 3 of 5 (60%) owners of 93.5% of the improvement district area. On December 14, 1998, CPO Council 2 considered the Petition. The Council voted 7-0 to recommend approval.

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The waterline will serve a new development of single-family homes.

The estimated project cost is \$55,000, with the total assessed to the improvement district. The method of assessment is the fractional basis. The estimated rate of assessment is \$1,965 per tract.

Mayor KnightMayor Knight inquired whether anyone wished to be heard and no one appeared.

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Council Member Rogers Council Member Rogers said the draw on City resources is becoming unreasonable. There needs to be coordination and dialogue with the County regarding reciprocal services.

Motion -- Kamen moved that the Petition be approved and the Resolution be adopted.
-- carried Motion carried 7 to 0.

RESOLUTION NO. R-99-008

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89321 (south of Kellogg, east of 143rd Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Kamen moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

(The following Item was time certain and was taken up later in the meeting. Action is shown in Agenda order.)

NOTE/BOND SALE GENERAL OBLIGATION TEMPORARY NOTE SALE (SERIES 198) AND GENERAL OBLIGATION BOND SALE (SERIES 754 AND 755).

Agenda Report No. 99-023.

The City is offering for sale one series of General Obligation Temporary Notes totaling \$26,735,000 and two series of General Obligation Bonds totaling \$21,900,000 for the purpose of providing temporary and permanent financing for duly authorized capital improvement projects of the City.

The proceeds of the Series 198 Temporary Notes will be used to provide interim financing for various City-at-large and improvement district projects. The proceeds of the Series 754 Bonds will be used to permanently finance various neighborhood improvements located in special improvement districts. The proceeds of the Series 755 Bonds will be used to permanently finance various City-at-large capital improvement projects.

Sealed bids will be accepted until 10:30 a.m. CST at the City Council Office, at which time the bids will be publicly opened. No bids will be accepted after the 10:30 a.m. deadline. The bids will be verified, tabulated and presented to the City Council at 11:30 a.m. By law, the City must award the sale of the bonds and notes to the bidder whose proposed interest rates result in the lowest net interest cost to the City.

The Series 198 Temporary Notes will mature August 26, 1999, and will be retired using cash, the proceeds of both permanent financing bonds, and renewal notes issued at that time. The Series 754 Bonds will mature serially over fifteen years and will be paid from special assessments that are levied against benefitted property. The Series 755 Bonds will mature over ten years and will be paid from the citywide mill levy for debt service and the revenues accruing to various City enterprise funds. The Series 754 and 755 Bonds will be callable in 2006 and 2004, respectively, with a 1% call premium, in accordance with the City's debt management policy.

Kelly Carpenter Assistant Director of Finance reviewed and recommended acceptance of the bids as outlined below resulting in the lowest net interest cost to the City:

General Obligation Improvement Temporary Notes, Series 198 (\$26,735,000)

Salomon Smith Barney - 3.068% Net Interest Costs	
Total Interest Cost to Maturity -	\$470,461.74
Less Premium -	58,015.95
Net Interest Cost to Maturity -	\$412,445.79

General Obligation Bonds; SA, Series 754 (\$12,500,000)

George K. Baum - 4.4207% Net Interest Costs	
Total Interest Cost to Maturity -	\$5,240,402.71
Less Premium -	- 0 -
Net Interest Cost to Maturity -	\$5,240,402.71

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General Obligation Bonds; GO, Series 755 (\$9,400,000)

George K. Baum - 4.0980% Net Interest Costs	
Total Interest Cost to Maturity -	\$2,247,070.00
Less Premium -	- 0 -
Net Interest Cost to Maturity -	\$2,247,070.00

Mayor Knight Mayor Knight inquired whether anyone wished to be heard and no one appeared.

Motion --Knight moved that the sale be awarded as outlined above; the Declarations of Emergency be approved and the Mayor be authorized to sign; the Ordinances be placed on their passage and adopted on the date of their introduction, all in accordance with K.S.A. 12-3001; and the Mayor be authorized to sign the necessary documents. Motion carried 7 to 0.

-- carried

ORDINANCE NO. 44-130

An Ordinance authorizing and providing for the issuance of General Obligation Renewal and Improvement Temporary Notes, Series 198, of the City of Wichita, Kansas, in the total principal amount of \$26,735,000 for the purpose of providing the necessary funds to renew a portion of the principal amount of temporary notes previously issued for the interim financing of costs in connection with previously commenced capital improvements in the City, and for the interim financing of costs in connection with newly commenced capital improvements in the City; prescribing the terms and details of the notes; providing for the payment of the principal of and the interest on the notes; and making certain other covenants and agreements with respect thereto. Knight moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12- 3001.

ORDINANCE NO. 44-131

An Ordinance authorizing and providing for the issuance of General Obligation Bonds, Series 754, of the City of Wichita, Kansas, in the total principal amount of \$12,500,000, for the purpose of providing the necessary funds to pay costs in connection with the making of capital improvements in the City; prescribing the terms and details of the bonds; providing for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and the interest on the bonds as it becomes due and payable; and making certain other covenants and agreements with respect to the bonds. Knight moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001.

ORDINANCE NO. 44-132

An Ordinance authorizing and providing for the issuance of General Obligation Bonds, Series 755, of the City of Wichita, Kansas, in the total principal amount of \$9,400,000, for the purpose of providing the necessary funds to pay costs in connection with the making of capital improvements in the City; prescribing the terms and details of the bonds; providing for the levy and collection of an annual tax for the purpose of providing for the payment of the principal of and the interest on the bonds as it becomes due and payable; and making certain other covenants and agreements with respect to the bonds. Knight moved that the Ordinance be placed on its passage and adopted on the date of its introduction, all in accordance with K.S.A. 12-3001.

FARM AND ART MARKET FARM AND ART MARKET OPERATIONS. (District VI)

Agenda Report No. 99-024.

Since the construction of the Old Town Farm and Art Market in 1991, this facility has been under a management contract with David Burk, the Old Town Preferred Developer. This contract, which expired in August, 1998, included the responsibilities of property management services (leasing, rent collection, maintenance, space configuration, financial record keeping and reporting, payment of all expenses) as well as marketing, advertising, promotion of the leasable space, leasing/management of the banquet facility and the plaza (including weekly Farmers' Market and special public/private plaza events). With Burk's departure, the City has utilized a private management firm in the interim to manage this facility.

Finding a suitable management firm was difficult because of the variety of services required for such a facility to be successful. The City first solicited proposals in July, 1998, but received no responses. A second request - modified to include only property

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management services - was issued. Two responses were

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received; Key Management was the low bidder and was retained to oversee property management functions pending a further evaluation of the management services required. During this interim period, no one has been performing marketing /promotion or recruitment functions for this market. Consequently, some of the business and activities at the Farm & Art Market has declined.

Current occupancy of the retail spaces (not including the third floor artist studios) is 93%. This includes two tenant vacancies: the bookstore space on the third floor and Carla's Collections on the second floor. All of the tenant leases have been renewed until the Fall of 1999 (With the exception of one tenant who has a six month lease, the remainder have one year leases).

The Farm & Art Market is a unique facility that presents unusual property management challenges. The tenants are fledgling entrepreneurs who require a high degree of assistance and support which they became accustomed to under the management of David Burk. The physical structure of the retail shops is also unique in that, due to no structured walls separating their shops from one another, they are influenced and affected by the actions of all the tenants; thus, disputes can occur that often require management attention.

In addition to the unique needs of the tenants, management of this facility also requires marketing and promotion of the retail spaces as well as the recruitment/scheduling/oversight of special events in the banquet facility and the outdoor plaza area. Individuals and companies engaged in the business of property management are not always equipped to handle public relations, marketing, promotion and evening and weekend special event coordination at such facilities.

To provide the attention required to address many of the challenges at this public-owned facility, it is proposed that a full-time City position be funded. The individual selected needs to have good interpersonal skills, problem solving skills, vision, creativity, successful experience in marketing and promotion, and preferably background or knowledge in business and/or property management. The individual would be provided office space in the Market facility and would work during the Market's hours. The responsibilities of this position would include property management (leasing, rent collection, resolution of tenant disputes, scheduling maintenance, financial record keeping and reporting) as well as marketing, advertising, promotion of the leasable space in the Farm & Art Market building, leasing of the banquet facility, and management of the plaza (including weekly Farmers' Market from May-October and special public/private plaza events).

Such a position would be charged with providing the overall management and marketing functions which would restore this Old Town Market as a major attraction in the area and to ensure that the facility is operated with the original goal of being an anchor for business and entertainment, and work with Old Town merchants in promoting business and development within the Old Town area. An option to hiring a full-time employee devoted to the expansion and operation of the Old Town Market is to continue with the contract management, or attempt to find another management firm that would perform the necessary marketing and promotion activities important to the Market's success. Neither of these options appear to address some of the challenges being faced at this facility and the need to concentrate on building business - both retail and entertainment.

Key Management's fee of 4.2% of the gross receipts is about \$675 per month and is based on the current leases. (Key has recently requested an increase to 7%). The leasing commission paid to Key is 6% on new leases and 1% on renewals. In addition, Key is paid \$100 per banquet or plaza event. Key's contract provides onsite maintenance, including minor cleanup and management of tenant issues for \$5 per hour, seven hours a day, seven days a week.

Based on current leases, the projected revenues for 1999 are \$205,700; expenses are estimated to be approximately \$194,700 under the current management structure. With the addition of a full time position, together with necessary marketing and promotional costs felt needed to enhance the facility and its role in the Old Town area, expenses will be increased. Initially, these added costs will reflect a deficit (expenses over revenues); however, the income would be expected to increase with more rentals and activities that will be scheduled with a full time management effort. To implement this position, together with other associated costs, would be approximately \$65-70,000. These costs would be appropriated from the City's Property Management budget.

There is a 60-day notice required to terminate the current property management contract.

Council Member Rogers momentarily absent.

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Council Member Lambke Council Member Lambke requested a report on the increase or decrease in activity as a result of the changes, the report to be in one year to fifteen months.

Mayor Knight Mayor Knight inquired whether anyone wished to be heard and no one appeared.

Motion --Cole moved that a position for the management and marketing of the Old Town Farm and Art Market be approved. Motion carried 7 to 0.

CITY COUNCIL AGENDA

APPOINTMENTS

BOARD/COMMISSION APPOINTMENTS (FOR TERMS EXPIRING JUNE 30, 1999):

Commission on the Status of People with Disabilities (3 appointments - Knight, Cole, Lambke)

Convention & Tourism Committee (Ferris)

Human Services Board (Council at large)

Police & Fire Retirement Board of Trustees (Rogers)

Wichita Commission on the Status of Women (3 appointments - Gale, 2-Lambke)

Wichita-Sedgwick County Alcohol and Drug Abuse Advisory Board (Council at large) Wichita-Sedgwick County Correctional Housing Board (Knight - Municipal Court Probation)

There were no appointments made.

APPOINTMENT TO WICHITA ATHLETIC COMMISSION (COUNCIL AT LARGE).

One vacancy due to the resignation of Scott Smith, for a term expiring January 30, 1999.

Motion --Ferris appointed Leon Pete Canady and moved that the appointment be approved.
-- carried Motion carried 7 to 0.

APPOINTMENTS TO THE JUVENILE CORRECTIONS ADVISORY BOARD FOR THE 18TH JUDICIAL DISTRICT.

The City is authorized to make three appointments to the Juvenile Corrections Advisory Board.

Motion --Cole appointed Shawna Mobley, Margalee Wright, and Long Le and moved that the
-- carried appointment be approved. Motion carried 7 to 0.

TRANSPORTATION 2000 PLAN REPORT ON THE GOVERNOR'S TRANSPORTATION 2000 PLAN.

Chris Cherches City Manager said the Task Force had twelve town meetings throughout the State of Kansas during the summer months, and concluded with the recommendation to the Governor of an eight-year Program that was slightly over \$4 billion.

The Task Force felt that sufficient moneys should be allocated to assist small airports (in urban and rural areas) and short-line railroads (in need of maintenance).

The Governor's proposal, really, is to stimulate some debate in the Legislature and in the State, because it is somewhat less than the Transportation 2000 recommendation. "I think what he was trying to do was to implement a program in the State that would address the many areas of transportation but, at the same time, not saddle the State with too much debt for doing so." The Governor's proposal would dedicate a portion of the existing State Sales Tax toward the highway program.

The Governor's proposal also would involve an aggressive bond program of \$1.8 billion spread over twenty-five years. The proposal relied, primarily, on bond financing of 75 percent of the total cost, which compares to 33 percent in the approved 1989 Transportation Plan.

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The Governor's proposal represents increased funding but only slightly better than the inflation adjusted program in 2004 dollars. It addresses systems enhancement, the City has a major interest in that area because of the rail challenge, in the amount of \$125 million/year. That amount, if projected out, would barely keep pace with inflation. The Governor did indicate that he is willing to consider a larger program after full debate in the State.

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With a lesser program that was recommended by Transportation 2000, it is certainly going to represent competition between cities for these funds.

The Governor would like to see what communities, local governments, State Legislature, and others feel they are willing to pay for within the State.

The City of Wichita, along with all local governments, should support the program which is better than not doing anything and just relying on what just comes in and is not sufficient to take care of all of the highway needs, forgetting the airport, rail, and public transit needs of the State.

Motion -- carried Knight moved that the Report be received and filed. Motion carried 7 to 0.

CONSENT AGENDA

Knight moved that the Consent Agenda be approved in accordance with the recommended action shown thereon. Motion carried 7 to 0.

BOARD OF BIDS REPORT OF THE BOARD OF BIDS AND CONTRACTS DATED JANUARY 11, 1999.

At 10:00 a.m., Friday, January 8, 1998, pursuant to advertisements published, bids were received, publicly opened, read aloud and tabulated for the Board of Bids and Contracts:

(Ref: Bid analysis report attached to Board of Bids Minutes January 11, 1999)

PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION: Sewers, Paving and Water Mains
as per specifications

1999 Enhanced Maintenance Area Concrete Reconstruction, Phase B - various locations. (132357 s/b 706648/405-218) Traffic to be maintained through construction using flagpersons and barricades. City Council approval date 10/13/98.

Bryant and Bryant - \$401,700.00 (Engineer's Estimate)

Enhanced Maintenance Preparatory Curb & Gutter Repair and Miscellaneous Concrete Repair, Phase VIII - various locations. (/706648/405218)
Traffic to be maintained through construction using flagpersons and barricades. City Council approval date 11/24/98.

Barkley Construction - \$120,250.00 (Engineer's Estimate)

1999 Utility Cut Repair of Streets, Alleys, Sidewalks, and Driveways at various locations. (132035/112000) Traffic to be maintained during construction using flagpersons and barricades. City Council approval date 08/11/98.

Cornejo & Sons Construction - \$1,019,750.00 (Engineer's Estimate)

War Industries Relief Sewer - Phase 1A - south of Pawnee, west of Hillside. (468- 82928/623306/533-322) Traffic to be maintained during construction using flagpersons and barricades. City Council approval date 1/6/98. (District III)

WB Carter Construction - \$966,231.00

Lateral 59, Main 9, Sanitary Sewer #23 to serve Comotara Industrial Park Second Addition - south of 34th Street North, west of Webb. (468- 82923/743765/480-467) Does not affect existing traffic. City Council approval date 12/8/98. (District II)

Dondlinger & Sons - \$11,475.00

Lateral 75, Main 22, War Industries Sewer to serve Wilson Farms and Wilson Retirement Additions - south of 21st, west of Webb. (468- 82855/743732/480-464) Does not affect existing traffic. City Council approval date 6/23/98. (District II)

Mies Construction - \$28,632.00

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Lateral 17, Main 24, War Industries Sewer to serve Tallgrass East Commercial Addition - north of 21st, east of Webb. (468-81946/743781/480-469) Does not affect existing traffic. City Council approval date 11/17/98. (District II)

Mies Construction - \$25,230.00

Water Distribution System to serve Tallgrass East Commercial Addition - north of 21st, east of Webb. (448-89333/734897/470-567) Does not affect existing traffic. City Council approval date 11/17/98. (District II)

Mies Construction - \$16,543.00

Water Distribution System to serve Buckhead Third Addition - north of Central, west of 119th Street West. (448-89279/734699/470-547) Does not affect existing traffic. City Council approval date 6/16/98. (District V)

WBW Contractors - \$39,923.00

Water Distribution System to serve Savanna at Castle Rock Ranch Ninth Addition - north of 13th, east of 143rd Street. (448-89303/734863/470-564) Does not affect existing traffic. City Council approval date 8/4/98

Dondlinger & Sons - \$24,647.00

Tipperary from the west line of Lot 51, Block 1 to the west line of Lot 33, Block 4; Bedford/Shannon Way/Ritchfield, from the north line of Tipperary to the north line of Lot 10, Block 3; Bedford from the NL of Shannon Way to the north line of Lot 56, Block 1; and Sidewalk on the north side of Tipperary from the west line of Lot 51, Block 1, to the east line of Lot 33, Block 4; and the east, north and west side of Bedford, Shannon Way and Ritchfield, Balthrop Addition - north of Central, east of Greenwich. (472-83030/765487/490-650) Does not affect existing traffic. City Council approval date 12/15/98. (District II); AND Storm Water Sewer No. 518 to serve Balthrop Second Addition - north of Central, east of Greenwich. (468- 82924/751255/485-160) Does not affect existing traffic. City Council approval date 12/15/98. (District II)

Cornejo & Sons Construction - \$299,596.90 (Total Aggregate Bid)

Hendryx from the EL of the plat, west to the WL of Lot 3, Block B; McCormick Avenue, from the SL of Hendryx, south of the WL of Lot 15, Block B; Hendryx Court (Lots 2 through 8, Block 1) north to and including the cul-de-sac; and Hendryx Court (Lots 13 through 20, Block A) north to and including the cul-de-sac, Reece Farms Estates - south of Maple, west of 151st West. (472-82929/764936/490-595) Does not affect existing traffic. City Council approval date 4/14/98. (District V)

Asphalt Construction Company - \$338,241.00 (Negotiated to Engineer's Estimate)

Knight moved that the contract(s) be awarded as outlined above, subject to check, same being the lowest and best bid within the Engineer's construction estimate, and the Mayor be authorized to sign for the City. Motion carried 7 to 0.

LICENSE APPLICATIONS**APPLICATIONS FOR LICENSES TO RETAIL CEREAL MALT BEVERAGES:**

<u>Renewal</u>	<u>1998</u>	<u>(Consumption on Premises)</u>
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Patrick J. Audley	Artichoke Sandwich Bar*	811 North Broadway.
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(Consumption off Premises)

Dwayne Kahns	Sunrise Amoco	6327 East 13th
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*General/Restaurant -- 50% or more of gross receipts derived from sale of food.

Motion --Knight moved that the licenses be approved subject to Staff review and -- carriedapproval. Motion carried 7 to 0.

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PLANS AND SPECIFICATIONS**PLANS AND SPECIFICATIONS:**

- a. 1999 Contract maintenance Preparatory Curb & Gutter Repair and Miscellaneous Concrete Repair. (132258)

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b. 1998 Enhanced Maintenance Area Concrete Reconstruction, Phase VII. (/706648)

c. Bayley Street. (472-83032/715540)

Motion --Knight moved that the Plans and Specifications be approved and the City Clerk be instructed to advertise for bids to be submitted to the Board of Bids and

-- carried Contracts by 10:00 a.m., January 22, 1999. Motion carried 7 to 0.

SUBDIVISION PLANS AND SPECIFICATIONS:

a. Water Distribution System to serve Harbor Isle Second Addition - east of Meridian, south of 53rd Street North. (448-89272/734574/470-535) Does not affect existing traffic. City Council approval date 5/19/98. (District VI)

b. Storm Water Sewer No. 521 to serve Buckhead Third Addition - north of Central, west of 119th Street West. (468-82948/751271/485-162) Does not affect existing traffic. City Council approval date 1/12/99. (District V)

c. Storm Water Sewer No. 517 to serve Harbor Isle Second Addition - east of Meridian, south of 53rd Street North. (468-82916/751272/485-163) Does not affect existing traffic. City Council approval date 1/12/99. (District V)

Motion --Knight moved that the Plans and Specifications be approved and the City Clerk be instructed to advertise for bids to be submitted to the Board of Bids and

-- carried Contracts by 10:00 a.m., January 22, 1999. Motion carried 7 to 0.

STORM WATER SEWER PETITION PETITION FOR STORM WATER SEWER TO SERVE HARBOR ISLE SECOND ADDITION, EAST OF MERIDIAN, SOUTH OF 53RD STREET NORTH. (District VI)

Agenda Report No. 99-026.

The Petition has been signed by one owner representing 100% of the improvement district.

The project will provide the storm sewer system for a new single-family development and part of the Meridian Improvement, north of I-235.

The estimated project cost is \$114,000, with \$38,000 paid by the City and \$76,000 assessed to the improvement district. The City share is for that portion of the system associated with the Meridian improvement. The funding source for the City share is General Obligation Bonds.

Motion -- Knight moved that the Petition be approved and the Resolution be adopted.

-- carried Motion carried 7 to 0.

RESOLUTION NO. R-99-009

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Sewer No. 517 (east of Meridian, south of 53rd Street North) Project No. 468-82916 in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

STORM WATER SEWER PETITION PETITION FOR STORM WATER SEWER TO SERVE BUCKHEAD THIRD ADDITION, NORTH OF CENTRAL, WEST OF 119TH STREET WEST. (District V)

Agenda Report No. 99-027.

The Petition has been signed by one owner representing 100% of the improvement district. The project will provide storm water sewer service to a new residential development.

The estimated project cost is \$252,000. The funding source is special assessments.

Motion -- Knight moved that the Petition be approved and the Resolution be adopted.

-- carried Motion carried 7 to 0.

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RESOLUTION NO. R-99-010

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Sewer No. 521 (north of Central, west of 119th Street West) Project No. 468-82948 in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

IMPROVEMENT PETITIONS PETITIONS FOR PAVING, SANITARY SEWER, DRAINAGE, AND WATER DISTRIBUTION SYSTEMS TO SERVE LINDSAY'S ORCHARD ADDITION, NORTH OF PAWNEE, WEST OF MAIZE. (District V)

Agenda Report No. 99-028.

The signature on the Petitions represents one owner that owns 100% of the improvement districts. Lindsay's Orchard Addition, a new single-family development, was platted in 1998. The developer has submitted new Petitions to reconfigure the area to meet the current rate of home sales.

The Petitions total \$455,000. The funding source is special assessments.

Motion -- Knight moved that the Petition be approved and the Resolution be adopted.

-- carried Motion carried 7 to 0.

RESOLUTION NO. R-99-011

Resolution of findings of advisability and Resolution authorizing improving of Rita, from the west line of Lot 12, block 1, to the west line of Stony Point Lane; Stony Point Circle from the south line of Rita to and including cul-de-sac; Stony Point Lane from the south line of Rita to the west line of Rita; and Jewell Court from the south line of Jewell to and including cul-de-sac, Project No. 472-83058 (north of Pawnee, west of Maize) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

RESOLUTION NO. R-99-012

Resolution of findings of advisability and Resolution authorizing construction of Lateral 422, Southwest Interceptor Sewer (north of Pawnee, west of Maize) Project No. 468-82943 in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

RESOLUTION NO. R-99-013

Resolution of findings of advisability and Resolution authorizing construction of Storm Water Sewer No. 520 (north of Pawnee, west of Maize) Project No. 468-82944 in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

RESOLUTION NO. R-99-014

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89353 (north of Pawnee, west of Maize) Project in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

WASHINGTON TURN LANE PETITION FOR TURN LANE ON WASHINGTON, SOUTH OF LINCOLN. (District I)

Agenda Report No. 99-029.

The Petition has been signed by one owner representing 100% of the improvement district. The turn lane will serve a new retail business. The estimated project cost is \$34,000. The funding source is special assessments.

Motion -- Knight moved that the Petition be approved and the Resolution be adopted.

-- carried Motion carried 7 to 0.

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RESOLUTION NO. R-99-015

Resolution of findings of advisability and Resolution authorizing improving of a turning lane on Washington Street Project No. 472-83037 (at Washington, south of Lincoln) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

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BOARDS MINUTES MINUTES OF ADVISORY BOARDS/COMMISSIONS:

Airport Authority, 12-7-98
Board of Code Standards and Appeals, 12-7-98
Board of Electrical Appeals, 11-10-98
Board of Park Commissioners, 12-14-98
Commission on the Status of Women, 12-12-98
Police and Fire Retirement System of Wichita, 11-18-98

Motion -- carried Knight moved that the Minutes be received and filed. Motion carried 7 to 0.

STREET CLOSURES/USES. CONSIDERATION OF STREET CLOSURES/USES.

There were no street closures considered.

RAILROAD CROSSING AGREEMENT. RAILROAD CROSSING AGREEMENT-BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY CROSSING AT 143RD STREET EAST, SOUTH OF 21ST STREET NORTH. (District II)

Agenda Report No. 99-030.

On November 4, 1997, the City Council approved a project to construct a waterline along 143rd Street East, south of 21st Street. The pipeline will cross under the Burlington Northern Santa Fe railroad tracks.

An Agreement has been prepared which allows the City to construct and maintain the waterline within railroad right-of-way.

There is a \$4,000 administrative fee. The funding source is the Water Utility.

Motion -- Knight moved that the Agreement be approved and the Mayor be authorized to
-- carried sign. Motion carried 7 to 0.

DESIGN SERVICES AGREEMENT AGREEMENT FOR DESIGN SERVICES-BALTHROP ADDITION, NORTH OF CENTRAL, EAST OF GREENWICH.

(District II)

Agenda Report No. 99-031.

The City Council approved the Balthrop Addition plat on December 15, 1998.

The proposed Agreement between the City and Professional Engineering Consultants (PEC) provides for the design of bond financed improvements in the Balthrop Addition. Per Administrative Regulation 7a, staff recommends the selection of PEC because PEC provided preliminary engineering services for the platting of the subdivision and can expedite plan preparation.

Payment will be on a lump sum basis of \$47,500, and will be paid by special assessments.

Motion -- Knight moved that the Agreement be approved and the Mayor be authorized to
-- carried sign. Motion carried 7 to 0.

ARTERIAL CORRIDOR/BRIDGES DESIGN CONTRACTS-ARTERIAL CORRIDOR AND BRIDGES PROGRAM.

Agenda Report No. 99-032.

On May 19, 1998, the City Council authorized the Staff Screening and Selection Committee to select design engineers for the 1998 Arterial Corridor & Bridges Program. On November 18, 1998, the Staff Screening and Selection Committee selected consulting firms to perform the design engineering for the CIP projects, associated petitioned projects, and incidental

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water and sewer lines.

The following is a list of projects, the firm selected for each project, and the maximum fee allowed by the Agreements.

<u>CIP #</u>	<u>LOCATION/DESCRIPTION</u>	<u>CONSULTANT</u>	<u>FEE</u>
MS-208001	Central & Rock Road	Mid-Kansas Engineering	\$80,000
MS-208001	Central & Hillside	Mid-Kansas Engineering	\$55,500

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B-9213 at West Drain	33rd Street Bridge Cook, Flatt & Strobel	\$48,102
B-9602 at Big Slough	55th Street Bridge Cook, Flatt & Strobel	\$21,190
B-9211 at Dry Creek	Pawnee Bridge Mid-Kansas Engineering	\$35,600
B-9206 over Wichita Drainage Canal	11th Street Bridge Mid-Kansas Engineering	\$34,250
B-9615 at Dry Creek	Lincoln Bridge Mid-Kansas Engineering	\$30,600
B-9210 at Fabrique Ditch	Lincoln Bridge Mid-Kansas Engineering	\$34,100

The design fees total \$339,342. The funding source is General Obligation Bonds.

Motion -- Knight moved that the Agreement be approved and the Mayor be authorized to
-- carried sign. Motion carried 7 to 0.

CONSULTANT SUPP. AGREEMENT SUPPLEMENTAL PROFESSIONAL SERVICES AGREEMENT-FOULSTON & SIEFKIN, L.L.P.

Agenda Report No. 99-033.

In 1997, the City sought expert legal advice on certain sales tax apportionment issues, and retained the firm of Foulston & Siefkin in connection therewith under a contract approved by the City Manager. The \$9,900 amount authorized the original contract has been expended, but the City still requires further legal services under the contract, so that Council action is necessary to increase the amount authorized thereunder.

By the Supplemental Agreement, the City of Wichita will continue to use the services of the Foulston & Siefkin law firm to provide legal advice and representation in relation to tax apportionment issues.

The Supplemental Agreement is for a not-to-exceed sum of \$59,900, which adds \$50,000 to the amount established by the original contract. These services will be paid out of 1999 General Fund Appropriated Reserves.

Motion --Knight moved that the Supplemental Agreement be approved and the Mayor be
-- carried authorized to sign. Motion carried 7 to 0.

DOUGLAS AVE. BRIDGE CHANGE ORDER-DOUGLAS AVENUE BRIDGE OVER THE ARKANSAS RIVER. (District VI)

Agenda Report No. 99-034.

On May 5, 1998, the City Council approved a contract to replace the Douglas Avenue Bridge over the Arkansas River. A part of the work involves driving piles into the riverbed to support the structure.

Softer than expected soil conditions were encountered, which require additional piling lengths.

The cost of the additional piling is \$53,979. Funding is available within the \$7,200,000 project budget. The funding source is a combination of General Obligation Bonds and Federal Grants administered by the Kansas Department of Transportation.

Motion --Knight moved that the change order be approved and the Mayor be authorized to
-- carried sign. Motion carried 7 to 0.

CHENEY RESERVOIR STUDY CHENEY RESERVOIR YIELD STUDY.

Agenda Report No. 99-035.

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Cheney Reservoir is a vital component of the City's water supply system. In 1998 it provided 65% of the City's water and it will continue to play a vital role as part of the City's approved Water Supply Plan.

In 1957, prior to construction of Cheney Dam on the north fork of the Ninnescah, the Bureau of Reclamation (BOR) performed a hydraulic study that estimated that the annual firm yield from Cheney Reservoir, as a water supply, was 52,600 acre feet per year (AFY) or about 46.9 million gallons per day (MGD). However, that particular study occurred during a severe drought, which was not over when the

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report was submitted. Therefore in 1959, the BOR performed another yield study, this time including the entire 1950's drought. This revised study estimated annual firm yield to a value of 42,900 AFY, or about 38.2 MGD which was 18% lower than the initial estimate.

Because of the importance of Cheney Reservoir in the City's Integrated Local Water Supply Plan, the significant variation between the two values, and the additional hydrologic data that is available now in comparison to 1959, the City requested Burns and McDonnell Engineering to perform an updated yield analysis of Cheney Reservoir.

Using hydrologic data from 1951 to 1995, including extrapolating data from hydrologic monitors in the area around Cheney Reservoir, the recently completed study estimates that the firm yield from Cheney Reservoir would be 49,000 AFY, or approximately 43.7 MGD. This value is 15% higher than the value in the 1959 BOR study. For comparison purposes, the City's annual water right from Cheney Reservoir is 52,639 AFY, and in 1998 Cheney Reservoir provided 44,100 AFY, or 39.5 MGD of water. This study has been reviewed by the BOR, the Kansas Water Office, and the Division of Water Resources of the Kansas Department of Agriculture.

The purpose of a safe yield analysis is to help manage Cheney Reservoir. The City has the alternative to use one of the three yield studies performed for the reservoir. Staff recommends that the newest study, which includes the most extensive hydrologic data, be used to manage the reservoir.

Motion --Knight moved that the 1998 Cheney Yield Study be received and filed. Motion
-- carried carried 7 to 0.

IRB - SOUTHWEST PAPER CO.IRB PURCHASE OPTION-SOUTHWEST PAPER COMPANY, INC. (District VI)

Agenda Report No. 99-036.

On June 30, 1992, City Council approved issuance of \$2,400,000 in Industrial Revenue Bonds for Southwest Paper Company, Inc. The Bonds were issued to acquire Lot 4, Bridgeport II for redevelopment and construction of a 80,000 sq. ft. warehouse consisting of 12,000 sq. ft. of office space. Southwest Paper Company, Inc. has decided to exercise its purchase option on the IRB-financed property.

Under the provisions of Sections 15.1 and 15.2 of the Lease Agreement for Series VI, 1992 Bonds, Southwest Paper Company, Inc., the Tenant, has the option to purchase the facility from the City of Wichita for \$100 once all outstanding bonds have been paid. At the same time, upon receipt of Trustee certification that the bonds have been paid and receipt of \$100 from Southwest Paper Company, Inc., the City will deliver the instruments needed to deed the bond financed property back to Southwest Paper Company, Inc. and terminate the IRB lease. The City has already received payment of the \$100 purchase option price.

The purchase price is \$100 and other considerations as listed under the provision of the Lease Agreement including all payments necessary to redeem and retire all outstanding bonds. This price includes without limitations, the payment of all outstanding principal, interest, and all other expenses of redemption, and trustee fees, after the deduction of any amounts provided for in the Lease Agreement and available for such redemption.

The City is contractually bound to convey the IRB Project property to the Tenant by special warranty deed, once all the conditions established in the Lease have been met.

Motion -- Knight moved that the Resolution be adopted and the Mayor be authorized to sign
-- carried the necessary documents. Motion carried 7 to 0.

RESOLUTION NO. R-99-015

A Resolution authorizing the city of Wichita, Kansas, to convey certain real property to Southwest Paper Company, Inc., and prescribing the form of and authorizing the execution and delivery of certain documents in connection therewith, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Ayes: Cole, Ferris, Gale, Kamen, Lambke, Rogers. Knight.

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ORDINANCE SECOND READING ORDINANCE: (First Read January 5, 1999)

a. A 98-29 - North and South of Harry, Between Webb Road and 127th Street East. (District II)

ORDINANCE NO. 44-133

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto, read for the second time. Knight moved that the Ordinance be placed upon its passage and adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight. A 98-29

PLANNING AGENDA

Marvin Krout Director of Planning stated that Items 27, 28, and 32 could be considered as consensus Items unless the Council desired to withhold other items.

Motion --Knight moved that Planning Agenda Items 27, 28, and 32 be approved as consensus -- carried Items. Motion carried 7 to 0.

DR 98-10 DR 98-10 - REQUEST TO WAIVE A CONDITION OF PLATTING REQUIRING A SIDEWALK ALONG BROWN THRUSH STREET IN ASHLEY PARK ADDITION. (District V)

Marvin Krout Director of Planning reviewed the Item.

Agenda Report No. 99-037.

MAPC Recommendation: Permit developer to submit a substitute Petition which guarantees the installation of the sidewalk when sidewalks are installed along Second Street.

Staff Recommendation: Deny the applicant's request and direct the sidewalk to be constructed.

The Ashley Park Homeowners Association is requesting a waiver of a condition of approval for the Ashley Park Addition which required the installation of a new sidewalk along the east side of Brown Thrush Street, in connection with the street construction currently underway. The sidewalk is designed to connect Second Street to an existing sidewalk located in Reserves A, E, and F, east of Block 4. In addition to the sidewalk, Reserves A, E and F contain homeowner maintained water features, bridges and recreational space. In 1988, the above sidewalk guarantee requirement was included by the Metropolitan Area Planning Commission and the City Council as a condition of approval for the plat of Ashley Park Addition.

A sidewalk has been installed through Reserves A, E and F, installed privately by the developer without the use of the petition. This sidewalk begins just south of Lot 32, Block 4 (there is not any connection to the sidewalk on Maple) and runs northward behind Lots 32 through 9, Block 4. At the rear of Lot 9 the sidewalk ends. The plat created a sidewalk easement that runs along the west side of Lot 9, designed to connect the existing sidewalk in Reserves A, E and F with the sidewalk to be constructed on the east side of Brown Thrush. Since the existing sidewalk was constructed privately and located in private reserves owned and maintained by the homeowners association with no dedication of public access rights, the existing sidewalk is not a public sidewalk available for general public use.

Ashley Park Homeowners feel that if the Brown Thrush sidewalk was to be installed, non-residents would be invited to use the new public sidewalk to access their privately maintained sidewalk and reserve areas, located at the rear of the homeowner's lots. At MAPC, the homeowners representative indicated they had already experienced vandalism and increased maintenance costs caused by non-residents entering their reserve area.

Sidewalks have not been constructed between Maple and the beginning of the sidewalk in Reserve A; nor have any sidewalks been constructed along either side of Second Street, between Ridge Road and Woodchuck, except on the north side of Second Street, west of Brown Thrush adjacent to the school. A sidewalk certificate was filed with the plat requiring the construction of sidewalks on the south side of 2nd Street, west of Brown Thrush, when building permits were issued for the adjoining lots. However, this requirement was not enforced when these permits were issued. There

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are sidewalks along Ridge Road and Maple.

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At the December 17, 1998, MAPC meeting, the Commission recommended that a substitute sidewalk petition be submitted by the developer in exchange for the existing paving petition which made the sidewalk part of the street project. This substitute sidewalk petition would be held until such time as a sidewalk is installed on Second Street from Ridge Road to Brown Thrush Park. When a sidewalk is installed along Second Street from Ridge to the park, the sidewalk petition for Brown Thrush would be activated and the sidewalk project initiated. The developer of this project has indicated to staff he would do "whatever makes everyone happy."

Planning staff believes sidewalks are important improvements that add to the quality of urban life. Sidewalks provide safe and convenient, paved routes which separate vehicular traffic from pedestrian travel. Sidewalks also provide mobility for handicapped persons, promote social interaction among neighbors, linkages between adjoining neighborhoods which facilitate access to schools, parks and shopping areas. Sidewalks also promote non-motorized forms of transportation to meet bus stops. In this case, there is a park, a school and a shopping area north of the neighborhood for which a sidewalk in this location would be beneficial even though a "public" system was not constructed through this addition south to Maple, and even though no sidewalk exists along 2nd Street today. There will be pedestrians walking between houses in Ashley Park and the park across Second Street, and they should be protected from vehicular traffic at the intersection of 2nd and Brown Thrush.

In the recent opinion survey conducted by the Research Center for MAPC, "a neighborhood with sidewalks" achieved the highest percentage of agreement with local residents as a component of their "ideal neighborhood." Although some of the sidewalk segments in this area have not been constructed in accordance with the platting requirements, these sidewalk improvements may be ordered in or constructed at large at some point in the future to complete the system.

Ordinance No. 36-327 established the City Council's policy regarding the installation of sidewalks in new subdivisions. In part, the sidewalk ordinance states that a guarantee for the installation of a sidewalk is required on one side of a continuous street which is platted to permit 48 or more dwelling units abutting both sides of the street when that street intersects a designated Collector or Arterial, unless the majority of the lots have frontages greater than 100 feet or are 20,000 square feet in area or larger. (Brown Thrush Street and Ashley Park connect Second Street, a Collector street, with Maple, an arterial street.) The Subdivision Committee and the Metropolitan Area Planning Commission allow developers to submit "alternate" sidewalk plans on occasion. Alternate sidewalk plans allow a developer the flexibility to route sidewalks in places other than along street right-of-ways which may result in a higher quality development.

The sidewalk ordinance permits anyone aggrieved by any provision of the sidewalk ordinance to be heard at a hearing held by the City Council.

Mayor Knight Mayor Knight inquired if anyone wished to be heard and no one appeared.

Motion -- Ferris moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved, subject to the recommended conditions

-- carried Motion carried 6 to 1. Kamen - No.

S/D 98-38S/D 98-38 - PLAT OF GARDEN MEADOW ADDITION LOCATED NORTH OF DOUGLAS, EAST OF 127TH
(Item No. 27) **STREET EAST.** (District II)

Agenda Report No. 99-038.

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

This plat is zoned SF-6, Single-Family Residential.

Although this site is in the City of Wichita, it will use the County's Four Mile Creek sanitary sewer system and petitions for sewer improvements will be handled by the County. Other petitions, all 100%, have been submitted for City water and paving improvements. A Certificate of Petitions has also been submitted. A No Protest Agreement for the future paving of Jackson has been provided. As required by the drainage plan for the site, an off-site drainage easement has been

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provided. To provide for off-street parking for lots adjacent to narrow streets, a covenant has also been submitted requiring that four (4) off-street spaces be provided for each such lot.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Certificate of Petitions, No Protest Agreement, drainage easement and covenant will be recorded with the Register of Deeds.

100 Percent petition for construction of Water Distribution System Number 448- 89355 (north of Douglas, east of 127th Street East)

100 Percent petition for improving of East First Street Circle from the east line of Jackson to and including cul-de-sac, Project No. 472-83060 (north of Douglas, east of 127th Street East)

Mayor Knight Mayor Knight inquired if anyone wished to be heard on this Item and no one appeared.

Motion --Knight moved that the Documents and Plat be approved and the Mayor be authorized to sign; and the Petitions be approved and the and the Resolution be adopted.

-- carried Motion carried 7 to 0.

RESOLUTION NO. R-99-017

Resolution of findings of advisability and Resolution authorizing construction of Water Distribution System Number 448-89355 (north of Douglas, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

RESOLUTION NO. R-99-018

Resolution of findings of advisability and Resolution authorizing improving of East First Street Circle from the east line of Jackson to and including cul-de- sac, Project No. 472-83060 (north of Douglas, east of 127th Street East) in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

S/D 98-62S/D 98-62 - PLAT OF SAND POINTE ADDITION LOCATED ON THE WEST SIDE OF HYDRAULIC, (Item No. 28) SOUTH OF 63RD STREET SOUTH.

Agenda Report No. 99-039.

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat.

This site is in the County within three miles of the City's boundary. A zone change (SCZ-0766) from RR, Rural Residential to SF-20, Single-Family Residential has been approved for this site subject to platting.

A petition, 100%, has been submitted for City water improvements. Petitions for paving and drainage will be handled by the County. Both a City and County Certificate of Petitions have also been submitted.

This plat has been reviewed and approved by the Planning Commission, subject to conditions and recording within thirty (30) days.

The Certificate of Petitions will be recorded with the Register of Deeds.

Mayor Knight Mayor Knight inquired if anyone wished to be heard and no one appeared.

Motion --Knight moved that the Documents and Plat be received and filed, and the Mayor be authorized to sign; and the Petition be approved and the Resolution be adopted.

-- carried Motion carried 7 to 0.

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RESOLUTION NO. R-99-019

Resolution of findings of advisability and Resolution authorizing constructing Water Distribution System No. 448-89356 (west of Hydraulic, south of 63rd Street South), in the City of Wichita, Kansas, pursuant to findings of advisability made by the Governing Body of the City of Wichita, Kansas, presented. Knight moved that the Resolution be adopted. Motion carried 7 to 0. Yeas: Cole, Ferris, Gale, Kamen, Lambke, Rogers, Knight.

CU-498CU-498 - CONDITIONAL USE REQUEST TO ALLOW VEHICLE SALES ON PROPERTY LOCATED NORTH OF HARRY AND EAST OF GEORGE WASHINGTON BOULEVARD. (District III)

Marvin Krout Director of Planning reviewed the Item.

Agenda Report No. 99-040.

MAPC Recommendation: Deny the request.
CPO Recommendation: Deny.
Staff Recommendation: Deny the request.

The applicant is requesting a Conditional Use to allow vehicle sales on a 9,000 square foot property located north of Harry and east of George Washington Boulevard. This platted tract is zoned "LC" Limited Commercial. The sale of vehicles and equipment with outside display/storage requires a Conditional Use within the "LC" Limited Commercial Zoning District.

The applicant has stated that he currently operates an upholstery repair shop at this location. Through his business dealings with customers and also car dealerships he acquires vehicles. The applicant has stated he cleans and repairs these vehicles, and then places them on his lot for sale. (No body or fender work is conducted on-site.) Central Inspection has notified the applicant he is in violation of the Unified Zoning Code and has required him to obtain a Conditional Use to allow vehicle sales.

The applicant has stated that the landscaped area along Harry just south of the existing building, as shown on the site plan, would be used for the display of vehicles, and no more than three vehicles would be displayed at any one time.

The Unified Zoning Code requires auto businesses to provide customer parking at the rate of two spaces for the first 10,000 square feet and one space per each additional 10,000 square feet of lot area used for vehicle sales, display, or storage purposes and one space per 500 square feet of building area for employee parking. The site plan shows approximately 494 square feet for vehicle sales, display and storage which will require a total of two spaces for customer and employee parking. The building (3,500 square feet) which will be used as an office for the vehicle and equipment sales operation (500 square feet) and the existing upholstery business (1,500 square feet) will require an additional 9 parking spaces (one for the office and eight for the upholstery business). There is also 1,500 square feet used for storage of the upholstery business which would require one additional parking space. Therefore, this site will be required to have 12 spaces for employee and customer parking.

The applicant is unable to meet the parking requirement on-site, and although the owner of the apartment to the north is agreeable to leasing spaces, that development does not have "excess" spaces to offer. Therefore, he would be required to file for a variance to reduce the required parking spaces.

There are commercial developments located to the south and east of this site. An apartment complex is north of the site. Across George Washington Boulevard to the west is a restaurant. Residential properties are located north of this restaurant along George Washington Boulevard.

Staff recommended denial of this request, due to the adopted policy to limit auto sales lots to limited areas of the City where these uses are well-established already.

CPO (3) voted to deny this request at the November 12th meeting. The applicant presented his request to the CPO. Two citizens voiced opposition to this request. Their concerns included the contention that when property is purchased, it should be put to use that is compatible with site constraints; the applicant intends to intensify the use of the property beyond what the site can accommodate; Schweiter Addition is beautiful and more commercialization will hurt the neighborhood; 35 percent of the overall business being vehicle sales is not an incidental use, but

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is a significant increase in the intensity of activity; the applicant will increase the number of vehicles for sale and more commercialization of Harry Street is not wanted.

At the December 17th MAPC hearing, the applicant's agent discussed this request. After discussion, the MAPC failed (6-6) on a motion to approve. A failure to recommend approval is considered to be a recommendation of denial of the application.

Conditional Use requests are not heard by the City Council unless appealed by the owner or an owner of property within 200 feet of the application area. This appeal is required by the Unified Zoning Code to be done in a timely manner, which has been done by the applicant. The applicant's appeal letter is the same information provided verbally to the Metropolitan Area Planning Commission at their hearing.

Council Member Lambke Council Member Lambke said he could see no harm in approving the request. There is commercial development all around and the property has been improved. Residential property cannot be seen from Harry Street.

Council Member Lambke suggested a visit to the site might change the minds of the MAPC, and suggested the Item be returned to the MAPC for reconsideration.

Motion -- Lambke moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the City Council refer the Item back to the MAPC for reconsideration. Motion
-- carried carried 7 to 0.

RECESS The City Council recessed at 10:50 a.m. and reconvened at 11:05 a.m.

(The Council proceeded to take up the time certain General Obligation Notes and Bonds Item. Action is shown with the Item in Agenda Order.)

Z-3295Z-3295 - ZONE CHANGE FROM "SF-6" SINGLE-FAMILY RESIDENTIAL TO "NR" NEIGHBORHOOD RETAIL, LOCATED NORTH OF MAPLE AND WEST OF TYLER. (District V)

Marvin Krout Director of Planning reviewed the Item.

Agenda Report No. 99-041.

MAPC Recommendation: Approve, subject to conditions.

CPO Recommendation: Approve, subject to conditions.

Staff Recommendation: Deny.

The applicant is requesting a zone change from "SF-6" Single-family Residential to "NR" Neighborhood Retail on a platted tract of land (1.03 acre) located north of Maple and west of Tyler. The applicant is proposing this rezoning to allow for a floral shop to be located at this site. Mr. Brown currently operates a floral shop on West Maple, just north of Lowe's, which has four full-time employees and 8 part-time employees.

The applicant has submitted a site plan which shows a 3,100 square foot existing home and a 1,700 square foot proposed addition. The existing home will be used as the floral shop and the addition will be used as a workshop for floral arrangements and shipping for deliveries. There is a 300 square foot existing garage located in the north half of the lot which will be used as storage. There is one point of access from Maple and 10 parking spaces would be provided. The Unified Zoning Code requires 1 space per 250 square feet of retail use and 1 per 1,000 square feet of warehouse space. If the development is limited to this plan, the applicant would be required to provide an additional 5 parking spaces. There is room to the north of the proposed addition to provide the additional required parking spaces. The applicant has stated that he plans on building a single family home on the vacant lot just west of this site.

The existing house and the proposed addition are only 9 feet east of the west property line, which will trigger a compatibility setback of 25 feet. The applicant will have three possible solutions to alleviate this problem: obtain a variance to reduce the compatibility setback from 25 feet to 9 feet on the west property line; the setback line on the west property line could be established through a replat; or the applicant could obtain a boundary shift on the west property line to

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move the lot line 16 feet to the west to meet the 25 foot compatibility setback requirement.

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The applicant will be required to meet the screening requirement on the north, east and west property lines. If the addition is constructed as per the site plan, then the landscape ordinance requirements would be triggered. A landscape plan shall be submitted by the applicant which shows the required landscaped street yard along Maple Street, the required buffer trees along the north, east and west property lines (one shade tree or two ornamental trees per forty lineal feet) and parking lot screening and landscaping. To use the existing house as a commercial building, the applicant will be required to remodel the house to meet minimum building code requirements for a commercial building and enlarge the driveway return to 24 feet wide.

The site is surrounded by two vacant lots on the east and west. South and north of this property are single-family homes.

At the October 14th CPO 5 hearing, the Council voted 5 to 3 to recommend approval of the request subject to the conditions outlined in the staff report, filing a "restrictive covenant," limiting parking to 15 spaces, and the applicants' residence be constructed within three (3) years.

At the October 15th MAPC hearing, the applicant spoke about the request for rezoning at this location. Two neighbors voiced their oppositions to this request. These individuals felt this request was inappropriate due to the lots being surrounded by single-family zoned lots and single-family homes. These individuals also believed if this request is approved it would set the precedent of stripping out of Maple Street. The Commission voted on two motions during this hearing. The motion to approve the request subject to the conditions found in the staff report failed 7 to 5. Finally, the motion to deny the request was approved 7 to 5. A protest petition was filed by the neighbors which covers 63 percent of the notification area.

On January 11, 1999, an additional petition against the zoning with 50 signatures was received.

Council Member Ferris Council Member Ferris said the property to the west is vacant. This would be trading residential property for a vacant lot. There is not a tremendous demand for infill housing and it is not likely the property will develop with single family dwellings.

Marvin Krout Director of Planning stated that there is infill development less than one block to the north.

Council Member Ferris Council Member Ferris said a protective overlay, if restrictive enough, could protect, more than harm, the neighborhood. A florist shop is not high volume traffic and, if residential in character, could add to the area.

A florist shop would have no detrimental impact on the neighborhood.

Zoning is about making sure the land use does not over-burden the property. A flower shop would not cause the land to be undevelopable.

Motion -- Ferris moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved, subject to the recommended conditions, and the Planning Department be instructed to forward the Ordinance for first reading when the plat is forwarded to the City Council.

Council Member Cole Council Member Cole stated that District VI is filled with blocks like this with commercial at the intersections and residential in between. What is decided by the Council is very important to the future of District VI and city-wide. The Council should not set a precedent by placing commercial development in the center of neighborhoods.

Council Member Kamen Council Member Kamen said this did not fit with his philosophy at all.

Council Member Lambke Council Member Lambke agreed that commercial development in the middle of residential was not proper planning.

Council Member Rogers Council Member Rogers said he would support Council Member Ferris as this location was a perfect place for this classification. This would not be a negative precedent.

-- failed Motion failed 4 to 3. Cole, Kamen, Lambke - No. (Override of protest petitions requires five votes.)

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Z-3300 Z-3300 - ZONE CHANGE FROM "B" MULTI-FAMILY AND "MF-29" MULTI-FAMILY RESIDENTIAL TO "NR" NEIGHBORHOOD RETAIL ON PROPERTY LOCATED AT THE SOUTHEAST CORNER OF MERIDIAN AND ORIENT. (District IV)

Marvin Krout Director of Planning reviewed the Item.

Agenda Report No. 99-042.

MAPC Recommendation: Approved for "NR" Neighborhood Retail.
CPO Recommendation: Deny the request.
Staff Recommendation: Deny request for "LC" but approve "NR" Neighborhood Retail.

The applicant is proposing to rezone a vacant 1.35 acre platted tract located east of Meridian and south of Orient from "B" Multi-family and "MF-29" Multi-family to "LC" Limited Commercial. The applicant does not have a specific use or potential user for this site.

The applicant will be required to meet the compatibility setback on the east portion of the property where adjacent to "TF-3" zoned land. The applicant will also be required to screen and landscape along the rear property line except where adjacent to "LC" Limited Commercial zoned property.

Railroad tracks are located north of this site. An Eagles Lodge, vacant land and single family homes are located east of this site on property zoned "LC" and "TF- 3." Single-family homes are located to the south and to the west, across Meridian are industrial uses.

CPO (4) voted 4-0 to deny this request at the December 10th meeting, stating as their reason the fact that the applicant was not in attendance at this meeting.

The MAPC voted to approve the request for "NR" Neighborhood Retail, subject to replatting. The applicant's agent explained that the applicant is in agreement with staff's recommendation during the hearing.

The Ordinance establishing the zoning change shall not be published until the plat has been recorded with the Register of Deeds.

Motion -- Gale moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved, subject to the recommended conditions, and the Planning Department be instructed to forward the Ordinance for first reading when the plat is forwarded to the City Council.
Motion carried

-- carried 7 to 0.

Z-3302Z-3302 - ZONE CHANGE FROM "SF-6" SINGLE-FAMILY TO "LC" LIMITED COMMERCIAL ON
(Item No. 32) **PROPERTY LOCATED AT THE SOUTHWEST CORNER OF CENTRAL AND BOYD.** (District V)

Marvin Krout Director of Planning reviewed the Item.

Agenda Report No. 99-043.

MAPC Recommendation: Approve the request.
CPO Recommendation: Approve the request, subject to Staff's recommendations.
Staff Recommendation: Approve the request, subject to Replatting.

The applicant is seeking to rezone a .67 acre site located at the southwest corner of west Central Avenue and Boyd that is currently zoned "SF-6", Single-family Residential to the "LC", Limited Commercial District. A single-family home currently exists on the site. The applicant has not identified a specific user at this time. This site is part of Lot 13, Central Acres Addition recorded in 1927. As an older plat, access controls were not obtained along Central or Boyd. Currently access is provided off of both Boyd and Central Avenue.

Neighboring land uses include retail sales, office, single-family residential and self-storage on land zoned "LC", Limited Commercial plus a use exception to permit self-storage warehouse; "SF-6", Single-family Residential and "GO",

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General Office.

If this request is approved, zoning screening (fencing) along the south property line, landscape buffering and parking lot screening will be required. Today the entire site is enclosed by a wooden fence.

At the CPO 5 meeting on December 16th, the CPO voted unanimously to approve the request. No neighbors spoke in opposition to the request.

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At the December 17th MAPC hearing the MAPC voted unanimously to approve the request, subject to replatting. No neighbors spoke in opposition to the request.

The Ordinance establishing the zoning change shall not be published until the plat has been recorded with the Register of Deeds.

Motion -- Knight moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved, subject to the recommended conditions, and the Planning Department be instructed to forward the Ordinance for first reading when the plat is forwarded to the City Council. Motion carried

-- carried 7 to 0.

Council Member Gale left the Bench.

Z-3306 Z-3306 - Zone Change from "SF-6" Single-Family Residential to "GO" General Office on Property, Located North of the Northeast Corner of 21st Street North and Tyler Road. (District V)

Marvin Krout Director of Planning reviewed the Item.

Agenda Report No. 99-044.

MAPC Recommendation: Approve for "GO" General Office.

CPO Recommendation: Approve "LC" Limited Commercial with the additional provisions
of a P-O Protective Overlay District.

Staff Recommendation: Deny request for "LC" but approve "GO" General Office.

The applicant requests "LC", Limited Commercial zoning on a vacant 1.12 acre tract of unplatted ground located one-quarter mile north of 21st Street, east of Tyler Road. The site is one acre in size and is currently zoned "SF-6", Single-family Residential. The applicant did not identify any specific intended use for the property other than to indicate a desire to develop the site for limited commercial uses. In the course of the hearings, the agent displayed a site plan showing possible use of this land as an extension of development planned on the abutting tract to the south, for a restaurant and parking. The site has approximately 153 feet of frontage along Tyler.

Neighboring land to the north and east is zoned "SF-6", Single-family Residential. Land to the north is part of the Reflection Ridge Residential Community Unit Plan (DP-170), and is shown in that plan as being developed with single-family homes. The tract to the east is owned by the applicant, and has a BZA use exception (BZA 1-96) to permit off-street parking for customers of the Village charter and Travel service.. Land to the south and west of the application area is zoned "LC", Limited Commercial. The applicant owns the lots to the south and southeast. Two of the lots are vacant, while one is developed with Village Charter. The lots west of Tyler Road are developed with retail commercial uses and theater parking.

However, if approved, the applicant will be required to meet the screening requirements of the Unified Zoning Code and the landscape requirements of the Landscape Ordinance.

Planning staff recommended denial of "LC" zoning but approval of "GO" General Office zoning, as a more appropriate transitional district to the planned residential development to the north, and in order to avoid "strip commercial" continuing northward along Tyler.

At the November 18th CPO 5 Council meeting, the CPO voted 5-1 to approve the request for "LC" subject to the conditions of a Protective Overlay volunteered by the agent. The PO would limit some undesirable uses otherwise permitted in this district.

At the December 3rd MAPC hearing, the applicant's agent was present to describe the request. A letter from the owner to the north in opposition to the request and indicating that he will also seek "LC" zoning if it is approved on this tract was handed to the Planning Commissioners. After discussion the MAPC voted unanimously to deny the request for "LC" but approve "GO" for this property, per staff recommendations, subject to replatting.

The Ordinance establishing the zoning change shall not be published until the plat has been recorded with the Register of Deeds.

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Motion -- Ferris moved that having reviewed the record of hearing before the MAPC and in accordance with Policy No. 10 of the MAPC previously adopted by this Board, and having reviewed the factors contained therein and the factors stated by the MAPC, the recommendation of the MAPC be approved, subject to the recommended conditions, and the Planning Department be instructed to forward the Ordinance for first reading when the plat is forwarded to the City Council.
Motion carried
-- carried 6 to 0. (Gale absent)

RECESS The City Council recessed at 11:52 a.m. and, due to a power outage, reconvened by candle light at 7:20 p.m. at the East point church of Christ, 747 North 127th Street East.

Wichita, Kansas, January 12, 1999
Tuesday, 7:00 p.m.

The City Council met in regular session with Vice Mayor Gale in the Chair. Council Members Cole, Kamen, Rogers; present. Council Members Ferris, Lambke, and Mayor Knight; absent.

Chris Cherches, City Manager; Gary Rebenstorf, Director of Law; Pat Burnett, City Clerk; present.

Vice Mayor Gale Vice Mayor Gale announced that the City Council was meeting to take up the following Item:

A 98-31 A 98-31 - THE CITY OF WICHITA SEEKS THE ANNEXATION OF LAND GENERALLY LOCATED SOUTH OF K-96 AND NORTH OF KELLOGG, BETWEEN GREENWICH ROAD AND 127TH STREET EAST.

(District II)

Ray Ontiveros Planning Department reviewed the Item.

Agenda Report No. 99-025.

On November 10, 1998 the City Council adopted a resolution that established January 12, 1999 at 7:00 p.m. at the East Point Church of Christ, 747 N. 127th St. East, Wichita, Kansas as the time and place for a public hearing for this annexation. The areas proposed for annexation are located south of K-96 Highway and north of Kellogg, between Greenwich Road. and 127th Street East.

The area proposed for annexation is the first phase of a two-phase annexation. The area comprises approximately 312 acres and 69 properties (58 platted and 11 unplatted) containing 45 residential properties, 14 vacant properties, seven farm related properties, one commercial tract and two exempt tracts that are part of the Lakeview Gardens Cemetery. The land use pattern of the area proposed for annexation is a mix of single-family residential development and undeveloped land, with a cemetery as the only current non-residential use. The majority of the area is zoned "SF-20" Single-Family Residential, with two tracts located south of Central at 127th Street, and a portion of the cemetery near K-96 and 13th Street zoned "LC" Limited Commercial. Those tracts zoned "SF-20" Single-Family Residential will convert to the "SF-6" Single-Family Residential district upon annexation, while the remaining tracts will remain as currently zoned. The properties proposed for annexation are located within the areas identified for new growth in the amended Wichita-Sedgwick County Comprehensive Plan: Preparing for Change Land Use Guide Map.

Approximately 20 people attended the information meeting hosted by staff on December 17, 1998. Staff provided an overview of the area to be annexed along with the methods and reasons for the annexation.

In accordance with Kansas statutes, a Service Extension Plan was prepared for this unilateral annexation. The analysis of the proposed annexation is contained in the plan.

The total appraised value of the land and improvements within phase I of this annexation is \$6,719,210, with a resulting initial annual City Ad Valorem tax revenue of approximately \$25,224.

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Major municipal services to be provided to this area upon annexation are street maintenance, ditch cleaning, culvert cleaning, fire protection, police protection, building code enforcement, and health code enforcement. The cost of municipal services to be provided upon annexation will be funded by the operating departments currently delivering these services. Major municipal services such as local street improvements, water and sewer service may be provided to this area upon request by the property owners. The cost of municipal services requested by the property owners will be distributed among the City at large and the benefitting property owners according to current City policies.

The Service Extension Plan has been on file for public inspection in the Office of the City Clerk. Copies of the resolution establishing the public hearing, a map showing the properties affected and a notice of the public hearing were sent by certified mail to all property owners of record in the proposed annexation area and to other established governmental entities and utility services. Copies of the resolution and map have also been published in the official City newspaper as further notification of the scheduled public hearing.

An 18 acre, unplatted parcel of land (MI-00149-0003- located just north of Kellogg), identified in the legal description of the service plan and originally included in Phase I of the proposed annexation was found to be ineligible for annexation. The parcel has been omitted from the proposed annexation.

The Metropolitan Area Planning Commission reviewed the proposed annexation for compatibility with the Comprehensive Plan on December 17, 1998. The staff report presented at the MAPC meeting indicated that the proposed annexation was in conformance with the plan. The MAPC found the proposed annexation in conformance with the Comprehensive Plan by a vote of (8-0).

In conducting the public hearing, Kansas statutes require that the City's plan for extending major municipal services be presented and that all persons interested in the annexation be heard. After hearing all comments of the persons interested, the City Council has the option of continuing or closing the public hearing, and approving or rejecting the annexation proposal.

Vice Mayor Gale Vice Mayor Gale inquired whether anyone wished to be heard.

Ralph Lanzrath Ralph Lanzrath said there have been five major changes in the area:

- 1) 1873 - Property went from Osage Indians to James White - cultivation.
- 2) 1955 - Dr. Stoltz platted land
- 3) 1970 - 1972 - Three families purchased all of the farm land and tried to revert back to trees.
- 4) 1979 - Rural water available.
- 5) 1995 - K-96 opened

Since K-96 has opened, everything has been changed. There is urbanization everywhere. It is time to face the fact that change has come. All of the family members now recommend and support annexation.

John Matthew John Matthew stated that there is a lot more noise since the highway opened. There were no abatement measures taken. The highway was elevated above the natural tree line. Mr. Matthew inquired whether the City could be of assistance.

Ralph Lanzrath Ralph Lanzrath said there was a hedgerow of trees the County did agree to leave. This was the noise abatement. The problem is that the highway was raised 21 feet to go over the railroad tracks and the raised portion is where the noise is the loudest. Mr. Lanzrath said 125 trees were added at personal expense.

Steve Lackey Director of Public Works said he could only assume that the County went through the same environmental clearances the City would have gone through. Right-of-way is purchased predicated on noise studies. KDOT has a policy which includes how far away property can be purchased to minimize noise.

Chris Cherches City Manager said it might be necessary for the land owners to pursue the noise abatement via a petition to the State Highway Department. The Director of Public Works will ask the State to look into the matter and see what might be done.

Mike Unrein Mike Unrein said Trinity High School and the Baptist Church were both promised City sewer service. Trinity High School opened and cannot get sewer service and has been, through emergency procedures, connected to the 4-Mile Creek Sewer system. Mr. Unrein's residence is the second house from the school. Sewer air purges through the vents in his roof and emits a tremendous odor. Mr. Unrein suggested annexation of this area be deferred until the Church and School

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could be annexed.

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- Liz Owens Assistant to the Water and Sewer Director said there is a check valve system that might be available and that she would check into the matter.
- Rixie Bush Rixie Bush inquired when the sewage treatment plant would be open for this area.
- Liz Owens Assistant to the Water and Sewer Director said it was hoped the pumping station would be completed in 1999.
- Curt Blacklock Curt Blacklock spoke regarding restrictions and compensation for those restrictions to his property.
- Gary Rebenstorf Director of Law explained that annexation is not a taking of property and, therefore, there is no compensation.
- Council Member Kamen Council Member Kamen explained that restrictions are made for the betterment of the whole, and generally are not required until neighbors or the general public indicate a desire or need for the restrictions.
- Mike Unrein Mike Unrein said the railroad track on part of his property was abandoned and he did not want to lose the potential use of the property to a bike trail.
- Council Member Kamen Council Member Kamen said that, in the past, the City has voted not to pursue a rail conversion to a bike trail. This rail has not been abandoned, at this point, and the City would have a public hearing, for input and decision, if the issue came up in the future.
- Council Member Rogers Council Member Rogers said growth will occur and it is a matter of controlling growth and meeting the concerns of the preponderance of people. There are amenities the City does provide.

(Electricity on at 8:15 p.m.)

- Steve Lackey Director of Public Works, responding to a question regarding the possibility of maintaining 55 mile per hour speed limits, explained that increased traffic volumes and side road accesses make 55 mile per hour speed limits unsafe. As traffic volumes increase and urbanization occurs, speed limits will probably need to be reduced.
- Vice Mayor Gale Vice Mayor Gale said the community is interdependent. A great majority of the traffic on the arterial streets is from outside the City limits.

Annexation does not change atmosphere. If neighbors prefer the present unpaved streets, water, and sewer services, those probably will not be changed until either growth required change or neighbors want services.

- Motion -- Kamen moved that the annexation request be approved and the annexation
-- carried Ordinance be placed on first reading. Motion carried 4 to 0. (Ferris, Lambke, Knight; absent)

ORDINANCE

An Ordinance including and incorporating certain blocks, parcels, pieces, and tracts of land within the limits and boundaries of the City of Wichita, Kansas, and relating thereto, introduced and under the rules laid over. A 98-31

- ADJOURNMENT The City Council meeting adjourned at 8:28 p.m.

Pat Burnett
City Clerk